

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 10/30/2018 10:16:51 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Fwd: Update from FL assumption workgroup call
Attachments: FL DA MOA 10.29.18.docx; ATT00001.htm; FL EPA MOA Redline version for sharing with FDEP 10.29.18 sak.docx; ATT00002.htm


Sent from my iPhone

Begin forwarded message:

From: "Kupchan, Simma" <Kupchan.Simma@epa.gov>
Date: October 29, 2018 at 12:49:19 PM EDT
To: "Fotouhi, David" <Fotouhi.David@epa.gov>, "Wade, Alexis" <Wade.Alexis@epa.gov>
Cc: "Wehling, Carrie" <Wehling.Carrie@epa.gov>, "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Subject: RE: Update from FL assumption workgroup call

David,

Thanks for your input. Attached are revised drafts of the DEP and Corps MOAs, which we think are ready and appropriate for RA review and sharing with DEP, pending your review and approval. Alexis has revised the DEP MOA to replace the specific language **Ex. 5 Deliberative Process (DP)**

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We have also incorporated a few staff level comments from R4. We have highlighted those edits and explanations in yellow so that you can see them easily. We would remove the yellow highlight when sending back to R4.

Please let us know if you have any proposed edits, questions, or concerns about these drafts, and/or when you think they are ready for transmission back to the Region to send to DEP.

Thanks for your attention.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Fotouhi, David
Sent: Monday, October 29, 2018 9:51 AM
To: Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Update from FL assumption workgroup call

I'm okay with stating that we're discussing this topic with Interior.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Wade, Alexis

Sent: Monday, October 29, 2018 9:39 AM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

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I can work on taking out the sections and adding brackets. Do you want to mention that the process

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Alexis Wade
Attorney-Adviser
Water Law Office
EPA Office of General Counsel
(202) 564-3273

From: Fotouhi, David

Sent: Monday, October 29, 2018 9:13 AM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>

Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: Update from FL assumption workgroup call

Thanks, Simma. I think we need to share a draft of some kind with the State.

conclude that we are not necessary to their ESA proposal, however flawed it is. The
pause was to allow time for the State to prepare a response.

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Ex. 5 Deliberative Process (DP)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Kupchan, Simma

Sent: Thursday, October 25, 2018 5:22 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: Update from FL assumption workgroup call

David,

(This can wait till next week – hope you enjoyed the weekend!)

In taking another close look at the FDEP MOA with Region 4 staff (latest draft attached for reference), and receiving some edits from them, Alexis and I became concerned progress references to the 5-way MOA might invite FDEP's input on

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We would therefore recommend that R4 staff ask their RA not to share this, after all, at this stage. Do you agree with that recommendation?

Apologies for all of the back and forth on this issue; I know that not sharing was Matt's and your initial preference. Thanks for your attention and feedback.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Fotouhi, David

Sent: Thursday, October 25, 2018 1:16 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>

Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: Re: Update from FL assumption workgroup call

Thanks very much

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On Oct 25, 2018, at 1:13 PM, Kupchan, Simma <Kupchan.Simma@epa.gov> wrote:

Hi David,

The Region assured me they would let me know when they passed the MOA to the RA for potential transmission to Florida, but I have not heard anything yet. I will let you know as soon as I hear anything.

In the meantime, attached is the draft they would share, with comments removed and edits anonymized.

Please let me know if you have further questions. Thanks.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Fotouhi, David
Sent: Thursday, October 25, 2018 12:33 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Wade, Alexis <Wade.Alexis@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Re: Update from FL assumption workgroup call

Thanks, Alexis.

Also, could you ask the region if the draft EPA-FDEP MOA was shared with the state and send me the as-sent document?

Sent from my iPhone

On Oct 25, 2018, at 9:05 AM, Wehling, Carrie <Wehling.Carrie@epa.gov> wrote:

Thank you, Alexis. Very helpful.
Would be good if DOI could provide specific wording suggestions...I know that's asking a lot given the cast of characters but it would help focus things.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Wade, Alexis
Sent: Wednesday, October 24, 2018 6:34 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Update from FL assumption workgroup call

Hello David –

Ex. 5 Deliberative Process (DP)

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Attorney-Adviser
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EPA Office of General Counsel
(202) 564-3273

<FL EPA MOA Redline version for sharing with FDEP 10.24.18.docx>